

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR : Jack T. Holladay

TITLE : **Astigmatic Axis Independent Spatial Frequency and Contrast Sensitivity Target and Method**

APPLICATION NO. : 10/694,609

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EXAMINER : Alicia M. Harrington

ART UNIT : 2873

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ATTORNEY DOCKET NO. : MTIZ 2 00004

INTERVIEW SUMMARY AND REQUEST FOR RECONSIDERATION

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The inventor, Dr. Holladay, and the assignee's representative, take this opportunity to thank the Examiner for the courtesies extended to them in the telephone interview conducted on July 24, 2007. The following will serve as a summary thereof, and is responsive to the Examiner's request for a submission that highlights the points discussed in the interview (and further identified in the Interview Summary mailed 06 .

Certificate of Electronic Transmission

I hereby certify that this Interview Summary, and any accompanying documents indicated therein as being transmitted, are being filed on the date indicated below by electronic transmission with the United States Patent and Trademark Office via the electronic filing system (EFS-Web).

Date: August 21, 2007

Mary M. Schriener
Mary M. Schriener

August 2007), as well as serving as a request for reconsideration of the rejections outlined in the Office Action mailed 28 June 2007.

Dr. Holladay provided a brief overview of the subject matter of the application and demonstrated to the Examiner how a patient with astigmatism would perceive one of the lines in the "clock" of Figure 1a as being darker than the other lines. Since the astigmatism can occur at various orientations, the present invention is deemed to be an improvement over prior art charts and targets represented in Figures 1a and 1b.

A brief discussion was then held with regard to the four target test of Figure 2, and likewise the six target test of Figure 3. It was again emphasized to the Examiner that, for example, claim 1 requires "at least four targets" and in this instance, each of the plural targets has a grating of parallel aligned light and dark areas where the brightness varies in a sinusoidal fashion and where the grating orientation is either vertical, horizontal, or at an angle. As previously noted in the Amendment filed March 7, 2007, this is distinguishable over Andera, et al. – U.S. Patent No. 5,216,458, which describes a carousel arrangement 16 in which film units 14a-e are rotated about axis 17 to sequentially position each of the film components in front of a light source (column 3, lines 51-58). It also mentions that the individual films 14a-e can be rotated by a separate drive motor (column 4, lines 1-3).

Next, the subject matter of Figure 4 of the present application was reviewed and discussed. Particularly, this is referred to as a "sinusoidal bulls-eye target". This embodiment is covered by independent claim 4, as well as other independent claims. A comparison of the claimed invention in Figure 4 of the present application relative to the teachings of Sarver was then reviewed. Dr. Holladay explained that Sarver is representative of a square wave as one moves radially in the depictions of Figures 5 and 6. This is supported by the description at column 2, lines 36-57, for example.

Claim 4 defines over Sarver, for example, since it requires a target that includes "concentric circular light and dark areas with brightness varying in a sinusoidal

fashion". This is evident in Figure 4. Moreover, amended claim 4 now further emphasizes that the light and dark areas are "substantially uniform over a circumference thereof". This is clearly not the case in Sarver. Rather, as one proceeds in a circumferential direction at a particular radius, the brightness will vary in Sarver in a circumferential direction. This is not the case in the present application (see Figure 4). Thus, and as outlined in the previous amendment, each of these claims directed to the bulls-eye target define over any fair interpretation of Sarver, or any of the remaining prior art.

Last, the embodiment of Figure 5 of the present application was also reviewed. As noted by Dr. Holladay, and as set forth in claim 6, for example, the opto-type is constructed from a plurality of strokes where each of the strokes has a width equal to a single sinusoidal period and a length that is a multiple of the width. This is best represented and illustrated in Figure 5 of the present application. There is simply no teaching, showing, or even a remote suggestion in any of the art of such an arrangement.

As also suggested to the Examiner, if the embodiments of Figures 2 and 3 require further consideration by the Examiner, applicants would be willing to cancel them without prejudice in order for the embodiments of Figures 4 and 5 to proceed without further delay. However, it is respectfully submitted that the claims define over the prior art of record.

Respectfully submitted,

FAY SHARPE LLP

21 August 2007
Date

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